



Council of the
European Union

Brussels, 14 November 2016
(OR. en)

14361/16

Interinstitutional File:
2016/0170 (COD)

MAR 284
CODEC 1645

REPORT

From:	General Secretariat of the Council
To:	Council
No. prev. doc.:	13785/16 MAR 277 CODEC 1543
No. Cion doc.:	9953/16 MAR 160 CODEC 846
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2009/45/EC on safety rules and standards for passenger ships – General approach

CONTEXT AND CONTENT OF THE PROPOSAL

1. On 7 June 2016, the Commission transmitted the above-mentioned proposal to the European Parliament and to the Council.
2. The proposal forms part of a broader review of the EU passenger ship safety legislation, in line with a "fitness check" carried out by the Commission.¹

¹ "REFIT – Adjusting Course: EU Passenger Ship Safety Legislation Fitness Check", doc. 13230/15 + ADD 1 and 2.

3. Directive 2009/45/EC of the European Parliament and of the Council on safety rules and standards for passenger ships² aims at attaining a high level of safety and at removing barriers to trade, by setting harmonised safety standards at an appropriate level for passenger ships and craft operating domestic services.
4. The Commission proposes to clarify and simplify the safety rules and standards for passenger ships so that they are easier to update, monitor and enforce.
5. Among the main amendments proposed by the Commission could be mentioned:
 - to eliminate a number of redundant, inconsistent or incorrect references, in particular related to the Intact Stability Code, High Speed Craft Code, bow height definition, port area, port State, and recognised organisation;
 - to provide for new definitions of traditional ship, sailing ship, pleasure yacht and craft, tender, and equivalent material;
 - to clarify the definition of "equivalent material" to avoid the non-uniform application arising from the interpretation of the Directive's scope related to the definition of aluminium as an equivalent material and the applicability of the corresponding fire safety standards;
 - to exclude ships below 24 metres from the scope of the Directive, and to clarify that the Directive does not apply to sailing ships, tenders and ships referred to in the Code of Safety for Special Purpose Ships (including offshore supply vessels);
 - to insert a new date of application for ships built in equivalent material before the entry into force of the Directive;

² OJ L 163, 25.6.2009, p. 1.

- to increase transparency and to facilitate the notification of exemptions, equivalencies and additional safety measures by Member States, by providing for the establishment of a database by the Commission. It should include the notified measures in their draft and adopted form;
- to align Directive 2009/45/EC with the provisions of the Treaty on the Functioning of the EU with regard to the power to adopt delegated and implementing acts conferred on the Commission.

WORK WITHIN THE COUNCIL

6. The Commission made an oral presentation of the review of the passenger ship safety legislation to the Transport Council on 7 June 2016.
7. The examination of the proposal by the Shipping Working Party started in July 2016.
8. The Shipping Working Party agreed on a number of changes to the Commission proposal, of which could be mentioned:
 - revised definitions of "persons with reduced mobility", "equivalent material" and "pleasure yacht/craft";
 - further simplification of the provisions concerning classes of passenger ships and sea areas, including a possibility for Greece to use the concept of sea routes instead of sea areas;
 - the possibility for Member States, who have more than 60 passenger ships made from aluminium alloy flying their flag, to exempt such ships from the Directive for a period of fourteen years, provided that the ships operate exclusively between ports of the Member State concerned;
 - an extension of the deadline to comply with the requirements to seven years for ships built in an equivalent material before the entry into force of the Directive;

- amendments to the provisions on delegated and implementing acts, including a time-limit for the delegation of power to the Commission;
 - an extension of the deadline for transposition to 36 months and a possibility for Member States who have no maritime ports and no ships flying their flag to be exempted from the obligation to transpose the Directive.
9. On 11 November 2016, the Permanent Representatives Committee examined the draft general approach, took note of the remaining reservations and of statements by delegations and decided to forward the text to the Council for adoption.
10. It should be noted that the proposal was not accompanied by an impact assessment. However, the Commission's REFIT report was presented and discussed in the Shipping Working Party in October 2015. Furthermore, the Commission proposal was accompanied by an implementation plan and an overview of the simplification proposals³.

WORK WITHIN THE EUROPEAN PARLIAMENT

11. The European Parliament Committee for Transport and Tourism (TRAN) appointed Ms Daniela Aiuto (EFDD-Italy) as rapporteur on 15 June 2016.

³ Doc. 9953/16 ADD 1 and 2.

REMAINING RESERVATIONS

Exclusion of sailing ships and offshore service vessels from the scope

12. Among the stated objectives of the Commission proposal is to clarify that Directive 2009/45/EC does not apply to sailing ships and ships referred to in the international Code of Safety for Special Purpose Ships, including offshore supply vessels.
13. However, Ireland considers in general that Directive 2009/45/EC currently applies to all types of domestic passenger ships and that its safety standards have been so designed. Therefore, recital 1 should be modified so as to clarify this.
14. As regards sailing ships, Ireland considers that they should continue to be included in the scope of the Directive, for reasons of a legal, safety, market access and practical implementation nature. According to Ireland, currently sailing ships propelled by mechanical means are included the scope of the Directive 2009/45/EC and to exclude them would reduce maritime safety and would also remove from the scope passenger ships which are currently certified under the Directive. If excluded from the scope, sailing ships would be subject to a wide variety of differing and possibly contradictory national law and regulations. This would not be in line with the development of a single market in the EU both for the re-flagging and sale of ships but also for encouraging such ships to take part in pan-European events such as tall ship races. To that end, Ireland suggests to modify the definition of sailing ships (point z of Article 2) to ships solely propelled by sails and to delete sailing ships from Article 3(2), which indicates to which categories of ships the Directive does not apply.
15. The Presidency has taken good note of the joint statement by Germany and Ireland on the issue of sailing ships.⁴

⁴ Doc. 13785/16 ADD 2.

16. As regards offshore service vessels, Ireland considers that offshore service ships and craft should be included in the scope and therefore should be deleted from Article 3(2)(a) and (b). According to Ireland, such ships/craft are currently within the scope of Directive 2009/45/EC. To remove them now would mean reducing the scope of the Directive which is not in line with the REFIT requirements. Additionally, there would be serious safety concerns in removing these ships from the scope of the Directive. Such vessels are engaged in the carriage of workers to and from offshore renewable and non-renewable energy projects and installations, amongst other uses. Ireland considers that such ships carrying workers to and from their place of work are passenger ships as the workers are passengers. This is analogous to workers being transported on any other mode of transport to or from their place of work. In all analogous cases, workers are passengers and the means of transport must comply with passenger transport standards. Therefore, Ireland considers that maritime transport should not have lower safety standards than other modes.
17. The Presidency has taken good note of the statement by Ireland on the issue of offshore service vessels.⁵

Other reservations

18. Denmark and the United Kingdom maintain parliamentary scrutiny reservations on the proposal.
19. The Commission maintains at this stage of the procedure a general reservation on any changes to its proposal, pending the European Parliament position at first reading.

⁵ Doc. 13785/16 ADD 1.

20. In addition, the Commission reserves its position on the possibility for Member States who have more than 60 passenger ships made from aluminium alloy flying their flag to exempt them from the provisions of the Directive. This is based on safety concerns related to such ships, in particular with regard to fire safety. The Commission also criticises the lack of transparency surrounding this derogation. Finally, the Commission has a reservation on the possibility for Member States without maritime ports and without ships flying their flag to derogate from the obligation to transpose the Directive, since this goes beyond a transposition derogation based on geographical criteria.

CONCLUSION

21. The Council is invited to examine the text, as set out in the Annex to this report, with a view to adopting a general approach on the text at the Council session on 1 December 2016.
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2016/0170 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2009/45/EC on safety rules and standards for passenger ships

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

Whereas:

- (1) To maintain a high level of safety provided by common safety standards defined by Directive 2009/45/EC of the European Parliament and of the Council² and to preserve a level playing field, the application of that Directive should be improved. Directive 2009/45/EC should apply only to passenger ships and craft for which its safety standards have been designed. A number of specific ship types should be therefore excluded from its scope, such as tenders, sailing ships or ships transporting trained personnel engaged in business of the ship or offshore installations.
- (2) The Regulatory Fitness Programme (REFIT)³ has shown that not all Member States certify aluminium ships under Directive 2009/45/EC. This creates an uneven situation that undermines the objective of achieving a common, high safety level for passengers sailing domestically in the Union. To avoid the non-uniform application arising from the interpretation of the Directive's scope related to the definition of aluminium as an equivalent material and the applicability of the corresponding fire safety standards, the definition of the equivalent material should be clarified.
- (2a) A significant number of passenger ships built in aluminium alloy ensure constant frequent maritime connections between different ports within a Member State. In view of the serious consequences on such transport operations and related socio-economic conditions, and given the financial and technical implications for existing and new ships which would arise from complying with the requirements of this Directive, those Member States should have the possibility to apply, for a limited period of time, national law to such passenger ships, while ensuring that the level of safety is adequately maintained.

² Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

³ COM(2015) 508.

- (3) In view of increasing legal clarity and consistency, a number of definitions and references should be updated and further aligned with the related international or Union rules. In doing so, special care should be taken not to alter the existing scope and level of safety provided by Directive 2009/45/EC. In particular, the definition of traditional ship should be better aligned with Directive 2002/59/EC of the European Parliament and of the Council⁴, while preserving the current criteria of the year of built and type of material. The definition of pleasure yacht and craft should be further aligned with the International Convention for the Safety of Life at Sea (SOLAS Convention).
- (4) In view of the principle of proportionality, the current prescriptive requirements derived from the SOLAS Convention have proven difficult to adapt to small passenger vessels below 24 meters in length. Furthermore, small ships are primarily built in other materials than steel and only a very limited number of such ships have been therefore certified under Directive 2009/45/EC. In the absence of specific safety concerns and adequate standards provided by the Directive, ships below 24 meters in length should therefore be excluded from its scope and should be subjected to specific safety standards determined by Member States that are better placed to assess the local limitations of navigation for these ships in terms of distance to coast or port and weather conditions.
- (5) To further simplify the definitions of sea areas provided for by Directive 2009/45/EC and to minimise the disturbances for Member States, the redundant or inadequate criteria should be removed. While maintaining the safety level, the definition of sea areas in which ships of Class C and D may operate should be simplified by removing the criterion of 'where the shipwrecked persons can land' and by removing the 'distance to the place of refuge' for the purpose of defining the sea areas. The appropriateness of a particular coastline as a place of refuge is a dynamic parameter that should be assessed on a case by case basis by Member States and, where necessary, any operational restrictions related to the distance from a place of refuge for a particular ship should be noted in the Passenger Ship Safety Certificate.

⁴ Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

- (5a) Due to the specific geographical and weather characteristics and the high number of islands that need to be served regularly and frequently in Greece, both with the mainland or amongst them, and the ensuing high number of possible maritime connections, Greece should be allowed to derogate from the requirement of establishing sea areas. Instead, Greece should be allowed to classify passenger ships according to the specific sea route in which they operate, while maintaining the same criteria for classes of passenger ships and the same safety standards.
- (6) To remove unintended negative consequences of the current provisions whereby converted cargo ships may not be considered as new passenger ships, it should be clarified that the conversion requirements apply to any ship, not only existing passenger ships.
- (6a) Since in accordance with Directive 2009/16/EC a port State may inspect a passenger ship or a high-speed passenger craft flying the flag other than that of the port State, when engaged on domestic voyages, the specific provisions of Article 5(3) of Directive 2009/45/EC are no longer necessary and they should be deleted.
- (6b) In view of the differences in approach between the SOLAS requirements on damage stability and the specific Union damage stability requirements for ro-ro passenger ships contained in Directive 2003/25/EC of the European Parliament and of the Council⁵, the need for and the added value of Directive 2003/25/EC should be assessed based on whether those SOLAS requirements ensure the same safety level.
- (7) To increase the transparency and to facilitate the notification of exemptions, equivalencies and additional safety measures by Member States, a database should be established and maintained for this purpose by the Commission. It should include the notified measures in their draft and adopted form.

⁵ Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships (OJ L 123, 17.5.2003, p. 22).

- (8) In view of the changes brought about by the Treaty on the Functioning of the European Union, the powers conferred on the Commission to implement Directive 2009/45/EC should be updated correspondingly. Implementing acts should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶.
- (9) In order to take account of developments at international level and experience and to increase transparency, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of excluding amendments to the international instruments from the scope of this Directive, if necessary, and updating the technical requirements. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (10) Since the specific references in Article 14 to ongoing work in the IMO have become obsolete, that Article should be deleted. However, the general objectives of the international action to improve passenger ship safety and establish a level playing field remain relevant and are pursued in line with the Treaties.

⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (11) In view of the full monitoring cycle of European Maritime Safety Agency visits, the Commission should evaluate the implementation of Directive 2009/45/EC no later than [seven years after the date referred to in the second subparagraph of Article 2(1)] and report to the European Parliament and the Council thereon. Member States should cooperate with the Commission to gather all information necessary for this evaluation.
- (11a) For a Member State which neither has maritime ports in its territory nor ships or craft falling under the scope of this Directive flying its flag, it would be a disproportionate and unnecessary obligation if that Member State had to transpose this Directive.
- (12) Directive 2009/45/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 2009/45/EC

Directive 2009/45/EC is amended as follows:

(1) Article 2 is amended as follows:

(a) point (a) is replaced by the following:

"(a) 'International Conventions' means the following conventions together with the Protocols and amendments thereto, i.e. in their up-to-date versions:

(i) the 1974 International Convention for the Safety of Life at Sea (the 1974 SOLAS Convention); and

(ii) the 1966 International Convention on Load Lines;"

(b) point (b) is replaced by the following:

"(b) 'Intact Stability Code' means the 'Code on Intact Stability for all types of ships covered by IMO Instruments' contained in IMO Assembly Resolution A.749(18) of 4 November 1993, or the 'International Code on Intact Stability, 2008' contained in IMO Resolution MSC.267(85) of 4 December 2008, in their up-to-date versions;"

(c) point (g)(ii) is replaced by the following:

"(ii) their maximum speed, as defined in Regulation 1.4.30 of the 1994 High Speed Craft Code and Regulation 1.4.38 of the 2000 High Speed Craft Code, is less than 20 knots;"

(d) point (m) is replaced by the following:

"(m) 'bow height' means the bow height defined in Regulation 39 of the 1966 International Convention on Load Lines;"

(e) point (r) is replaced by the following:

"(r) 'port area' means an area other than a sea area listed pursuant to Article 4(2), as defined by the Member States, extending to the outermost permanent harbour works forming an integral part of the harbour system, or to the limits defined by natural geographical features protecting an estuary or similar sheltered area;"

(f) point (s) is deleted;

(g) point (u) is replaced by the following:

"(u) 'port State' means a Member State to or from whose port(s) a ship or craft, flying a flag other than the flag of that Member State, is carrying out domestic voyages;"

(h) point (v) is replaced by the following:

"(v) 'recognised organisation' means an organisation recognised in accordance with Regulation (EC) No 391/2009 of the European Parliament and of the Council*;

* Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11).";

(i) point (y) is replaced by the following:

"(y) 'persons with reduced mobility' means anyone who has a particular difficulty when using public transport, including elderly persons, persons with disabilities, persons with sensory impairments and wheelchair users, pregnant women and persons accompanying small children;"

(j) the following points are added:

"(z) 'sailing ship' means a ship propelled by sails even if fitted with mechanical propulsion for auxiliary and emergency purposes;

(za) 'equivalent material' means aluminium alloy or any other non-combustible material which, by itself or due to the insulation provided, maintains structural and integrity properties equivalent to steel at the end of the applicable exposure to the standard fire test;

- (zb) ‘standard fire test’ means a test in which specimens of the relevant bulkheads or decks are exposed in a test furnace to temperatures corresponding approximately to the standard time-temperature curve in accordance with the test method specified in the 2010 International Code for Application of Fire Test Procedures, contained in IMO Resolution MSC.307(88) of 3 December 2010, in its up-to-date version;
- (zc) ‘traditional ship’ means any kind of historical passenger ship designed before 1965 and their replicas built predominantly with the original materials, including those designed to encourage and promote traditional skills and seamanship, that together serve as living cultural monuments, operated according to traditional principles of seamanship and technique;
- (zd) ‘pleasure yacht or pleasure craft’ means a vessel not engaged in trade, regardless of the means of propulsion;
- (ze) ‘tender’ means a ship-carried boat used for transferring more than 12 passengers from a stationary passenger ship to shore and back;
- (zea) 'offshore service ship' means a ship used to transport and accommodate industrial personnel who do not conduct work on board that is essential to the business of the ship;
- (zeb) 'offshore service craft' means a craft used to transport and accommodate industrial personnel who do not conduct work on board that is essential to the business of the craft;

(zf) ‘repairs, alterations and modifications of a major character’ means any of the following:

- any change that substantially alters the dimensions of a ship, e.g., lengthening by adding new midbody,
- any change that substantially alters the passenger-carrying capacity of a ship, e.g., vehicle deck converted to passenger accommodation,
- any change that substantially increases a ship's service life, e.g., renewal of passenger accommodation on one entire deck,
- any conversion of any type of ship into a passenger ship.";

(2) Article 3 is replaced by the following:

"Article 3

Scope

1. This Directive applies to the following passenger ships and craft, regardless of their flag, when engaged on domestic voyages:

- (a) new and existing passenger ships of 24 meters in length and above;
- (b) high-speed passenger craft.

Each Member State, in its capacity as port State, shall ensure that passenger ships and high-speed passenger craft, flying the flag of a State which is not a Member State, fully comply with the requirements of this Directive, before they may be engaged on domestic voyages in that Member State.

2. This Directive does not apply to:

(a) passenger ships which are:

- (i) ships of war and troopships;
- (ii) sailing ships;
- (iia) ships not propelled by mechanical means;
- (iii) vessels constructed in material other than steel or equivalent and not covered by the standards concerning High Speed Craft (Resolution MSC 36(63) or MSC.97(73)) or Dynamically Supported Craft (Resolution A.373(X));
- (iv) wooden ships of primitive build;
- (v) traditional ships;
- (vi) pleasure yachts;
- (vii) ships exclusively engaged in port areas;
- (viii) offshore service ships; or
- (ix) tenders;

(b) high-speed passenger craft which are:

- (i) craft of war and troopcraft;
- (ii) pleasure craft;
- (iii) craft exclusively engaged in port areas; or
- (iv) offshore service craft."

(3) ⁷Article 4 is replaced by the following:

"Article 4

Categorisation of sea areas and classes of passenger ships

1. Sea areas are divided into the following categories:

‘Area A’ means a sea area outside of sea area B, C and D if any.

‘Area B’ means a sea area, whose geographical coordinates are at any point no more than 20 miles from the line of coast, corresponding to the medium tide height, but outside of sea area C and D if any.

‘Area C’ means a sea area, whose geographical coordinates are at any point no more than 5 miles from the line of coast, corresponding to the medium tide height, but outside of sea area D if any.

Additionally the probability of the significant wave height exceeding 2,5 metres shall be smaller than 10% for a period of one-year for all-year-round operation, or for a specific period for seasonal operation, such as summer period operation.

‘Area D’ means a sea area, whose geographical coordinates are at any point no more than 3 miles from the line of coast, corresponding to the medium tide height.

Additionally the probability of the significant wave height exceeding 1,5 metres shall be smaller than 10 % for a period of one-year for all-year-round operation, or for a specific period for seasonal operation, such as summer period operation.

⁷ *NB: some consequential changes might need to be made to other EU legislation, e.g.: Directive 99/35 – to delete Class: "1. This Directive shall apply to all ro-ro ferries and high-speed passenger craft operating to or from a port of a Member State on a regular service, regardless of their flag, when engaged on international voyages or on domestic voyages in sea areas covered by Class A as referred to in Article 4 of Directive 98/18/EC." Regulation No 336/2006 ISM – to delete Class: "(e) passenger ships, other than ro-ro passenger ferries, in sea areas of Class C and D as defined in Article 4 of Directive 98/18/EC."*

2. Each Member State shall:
 - (a) establish, and update when necessary, a list of sea areas under its jurisdiction;
 - (b) determine the inner border of the sea area closest to the line of the coast;
 - (c) publish the list in a public database available on the Internet site of the competent maritime authority;
 - (d) notify to the Commission the location of such information, and when modification made to the list.
3. By way of derogation, Greece may establish, and update when necessary, a list of sea routes instead of a list of sea areas using the corresponding criteria for categories set out in paragraph 1.
4. Passenger ships are divided into the following classes according to the sea area in which they may operate:

‘Class A’ means a passenger ship engaged on domestic voyages in sea areas A, B, C and D.

‘Class B’ means a passenger ship engaged on domestic voyages in sea areas B, C and D.

‘Class C’ means a passenger ship engaged on domestic voyages in sea areas C and D.

‘Class D’ means a passenger ship engaged on domestic voyages in sea areas D.
5. For high-speed passenger craft the categories defined in Chapter 1 (1.4.10) and (1.4.11) of the 1994 High Speed Craft Code, or Chapter 1 (1.4.12) and (1.4.13) of the 2000 High-Speed Craft Code shall apply.";

(4) Article 5 is amended as follows:

(a) in paragraph 2, the second subparagraph is replaced by the following:

"Each Member State, acting in its capacity as port State, shall recognise the High Speed Craft Safety Certificate issued by another Member State for high-speed passenger craft, when engaged on domestic voyages, or the Passenger Ship Safety Certificate referred to in Article 13 issued by another Member State for passenger ships when engaged on domestic voyages.";

(b) paragraph 3 is deleted;

(ba) paragraph 4 is replaced by the following:

4. Marine equipment complying with the requirements laid down pursuant to Directive 2014/90/EU of the European Parliament and of the Council** shall be considered to be in conformity with the requirements laid down pursuant to this Directive.

** Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (OJ L 257, 28.8.2014, p. 146).";

(5) Article 6 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

"(a) the construction and maintenance of the hull, main and auxiliary machinery, electrical and automatic plants shall comply with the standards specified for classification by the rules of a recognised organisation, or equivalent rules used by an Administration in accordance with Article 11(2) of Directive 2009/15/EC of the European Parliament and of the Council*.

* Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28.5.2009, p. 47).";

(ii) point (c) is deleted;

(b) in point (b) of paragraph 2, point (ii) is deleted;

(ba) point (b) of paragraph 2, point (iii) is replaced by the following:

"(iii) notwithstanding point (i), new passenger ships of Class D are exempted from the minimum bow height requirement laid down in the 1966 International Convention on Load Lines;"

(c) paragraph 3 is amended as follows:

(i) points (c) and (d) are replaced by the following:

"(c) existing passenger ships of Classes C and D shall comply with the specific relevant requirements in this Directive and in respect of matters not covered by such requirements with the rules of the Administration of the flag State; such rules shall provide an equivalent level of safety to that of Chapters II-1 and II-2 of Annex I, while taking into account the specific local operational conditions related to the sea areas in which ships of such classes may operate;

before existing passenger ships of Classes C and D can be engaged on regular domestic voyages in a port State, the Administration of the flag State shall obtain concurrence of the port State on such rules;

(d) where a Member State is of the view that rules required by the Administration of the port State pursuant to point (c) of this paragraph are unreasonable, it shall immediately notify the Commission thereof. The Commission shall decide, by means of an implementing act, whether the rules of the Administration of the port State are reasonable. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).";

(ii) points (e) and (f) are deleted;

(d) paragraph 4 is amended as follows:

(i) in point (a), the third indent is replaced by the following:

"– they fully comply with the requirements of the Code of Safety for Dynamically Supported Craft (DSC Code) in IMO Resolution A.373(10), in its up-to-date version;"

(ii) point (c) is replaced by the following:

"(c) the construction and maintenance of high-speed passenger craft and their equipment shall comply with the rules for the classification of high-speed craft of a recognised organisation, or equivalent rules used by an Administration in accordance with Article 11(2) of Directive 2009/15/EC.";

(e) the following paragraphs 5, 6 and 6a are added:

- "5. With regard to new and existing ships repairs, alterations and modifications of a major character and outfitting related thereto shall be in compliance with the requirements for new ships as prescribed in point (a) of paragraph 2; alterations made to a ship which are intended solely to achieve a higher survivability standard shall not be regarded as modifications of a major character.
6. Ships built in an equivalent material before the entry into force of this Directive shall comply with its requirements by [7 years after the date referred to in the second subparagraph of Article 2(1)].
- 6a. By way of derogation, a Member State who has more than 60 passenger ships made from aluminium alloy flying its flag on [*insert: date of entry into force*] may exempt, for a period of fourteen years, Class B, C and D passenger ships built in aluminium alloy from the provisions of this Directive, provided that they operate exclusively between ports of that Member State.

Any Member State wishing to avail itself of this derogation shall notify the Commission of its intention to avail itself of this derogation at the latest on [*insert: date of transposition*] as well as inform the Commission of the content. Any subsequent change shall also be communicated to the Commission. The Commission shall inform other Member States in accordance with Article 9(4).";

(6) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

(b) "1. Ro-ro passenger ships of Class C, the keel of which was laid or which were at a similar stage of construction on or after 1 October 2004, and all ro-ro passenger ships of Classes A and B shall comply with Articles 6, 8 and 9 of Directive 2003/25/EC.";

(c) paragraph 2 is deleted;

(7) Article 8 is amended as follows:

(a) in paragraph 3, the second subparagraph is deleted;

(b) paragraph 4 is deleted;

(8) Article 9 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. A Member State may, subject to the procedure laid down in paragraph 4, adopt measures allowing equivalents for certain specific requirements of this Directive, provided that such equivalents are at least as effective as such requirements.";

(b) paragraph 4 is replaced by the following:

"4. A Member State which avails itself of the provisions of paragraph 1, 2 or 3 shall proceed in accordance with the second to seventh subparagraphs of this paragraph.

The Member State shall notify the Commission of the measures which it intends to adopt, including particulars to the extent necessary to confirm that the level of safety is adequately maintained.

If, within a period of six months from the notification, the Commission decides, by means of an implementing act, that the proposed measures are not justified, the said Member State shall be required to amend or not to adopt the proposed measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

The adopted measures shall be specified in the relevant national legislation and communicated to the Commission and to the other Member States.

The measures referred to in the second and fourth subparagraph shall be notified by means of a database established and maintained by the Commission for such purpose. The Commission shall decide, by means of an implementing act, the conditions of access to this database. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

Any such measures shall be applied to all passenger ships of the same Class or to craft when operating under the same specified conditions, without discrimination with regard to their flag or to the nationality or place of establishment of their operator.

The measures referred to in paragraph 3 shall apply only for as long as the ship or craft operates under the specified conditions. ";

(c) in paragraph 5, point (c) is replaced by the following:

"(c) the Commission shall decide, by means of an implementing act, whether or not the decision of the Member State to suspend the operation of such ship or craft or to impose the additional measures is justified for reasons of serious danger to safety of life or property, or to the environment, and, if the suspension or the measures are not justified, that the Member State concerned shall be required to withdraw the suspension or the measures. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).";

(9) Article 10 is amended as follows:

(a) in paragraph 1, point (d) is replaced by the following:

"(d) the specific references to the 'International Conventions' and IMO resolutions referred to in points (g), (m), (q), and (zb) of Article 2, point (a) of Article 3(2), point (b) of Article 6(1) and point (b) of Article 6(2).";

(aa) in paragraph 2,

(i) point (b) is replaced by the following:

"(b) adjust the technical specifications found in the amendments made to International Conventions for type B, C and D ships and craft, in the light of experience";

(ii) the following points (c) and (d) are added:

"(c) simplify and clarify technical elements, in the light of implementation experience;

(d) update the references to other related Union instruments applicable to domestic passenger ships.";

(b) paragraphs 3 and 4 are replaced by the following:

- "3. The Commission is empowered to adopt delegated acts in accordance with Article 10a in order to adopt amendments referred to in paragraphs 1 and 2 of this Article.
4. In exceptional circumstances, where duly justified by an appropriate analysis by the Commission and in order to avoid a serious and unacceptable threat to maritime safety, to health, to shipboard living or to working conditions or to the marine environment, or incompatibility with Union maritime legislation, the Commission is empowered to adopt delegated acts in accordance with Article 10a, amending this Directive in order not to apply, for the purpose of this Directive, an amendment to the international instruments referred to in Article 2.

(10) the following Article 10a is inserted:

"Article 10a

Exercise of delegation

1. The power to adopt delegated acts referred to in Articles 10(3) and 10(4) is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 10(3) and 10(4) shall be conferred on the Commission for a period of seven years from [OJ: insert the date of entry into force of this Directive]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the seven-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3. The delegation of power referred to in Articles 10(3) and 10(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 10(3) or 10(4) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.
7. A delegated act amending this Directive in order not to apply, for the purposes of this Directive, any amendment to the international instruments in accordance with Article 10(4) shall be adopted at least three months before the expiration of the period established internationally for the tacit acceptance of the amendment concerned or the envisaged date for the entry into force of said amendment. In the period preceding the entry into force of such delegated act, Member States shall refrain from any initiative intended to integrate the amendment in national legislation or to apply the amendment to the international instrument concerned.";

(11) Article 11 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council* shall apply.

* Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).";

(b) paragraph 3 is deleted;

(12) Article 12 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. Each passenger ship shall be subjected by the Administration of the flag State to the surveys specified in points (a), (b) and (c):

(a) an initial survey before the ship is put into service;

(b) a periodical survey once every 12 months; and

(c) additional surveys, as the occasion arises.";

(b) paragraph 2 is deleted;

(13) Article 13 is amended as follows:

(a) paragraph 1 is replaced by the following:

"1. All new and existing passenger ships, fulfilling the requirements of this Directive, shall be provided with a Passenger Ship Safety Certificate in compliance with this Directive. The certificate shall have a format as laid down in Annex II. This certificate shall be issued by the Administration of the flag State after an initial survey, as described in point (a) of Article 12(1), has been carried out.";

(b) in paragraph 3, the third subparagraph is replaced by the following:

"Before issuing the Permit to Operate for high-speed passenger craft engaged on domestic voyages in a port State, the Administration of the flag State shall concur with the port State on any operational conditions associated with operation of the craft in that State. Any such conditions shall be shown by the Administration of the flag State on the Permit to Operate.";

(c) paragraph 4 is replaced by the following:

"4. Additional safety measures, equivalences and exemptions granted to ships or craft under and in accordance with the provisions of Articles 9(1), 9(2) and 9(3) shall be noted on the ship's or the craft's certificate.";

(14) Article 14 is deleted;

(15) the following Article 16a is inserted:

"Article 16a
Review

The Commission shall evaluate the implementation of this Directive and submit the results of the evaluation to the European Parliament and the Council no later than [seven years after the date referred to in the second subparagraph of Article 2(1)].";

(16) Annex I is amended as follows:

- (a) in paragraph 13.1 of Part A of Chapter II-2, the sixth sentence is replaced by the following:

"In the case the ship is engaged on domestic voyages in another Member State, a translation into the official language of that port State, if this language is neither English nor French, shall be included.";

- (b) in the first paragraph of footnote 1 to the table in paragraph 2 of Chapter III, the introductory phrase is replaced by the following:

"Survival craft may be lifeboats or life rafts or a combination of them in compliance with the provisions in Regulation III/2.2. When justified by the sheltered nature of the voyages and/or the favourable climatic conditions of the area of operation, having regard to the recommendations in IMO MSC/Circ.1046, the Administration of the flag State may accept, if this is not rejected by the port Member State:".

Article 2

Transposition

1. Member States shall adopt and publish, by [*insert: 36 months after the entry into force*] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

They shall apply those provisions from [*insert: 36 months after the entry into force*].

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
- 2a. By way of derogation from paragraph 1, a Member State shall not be obliged to transpose the Directive if there are no maritime ports in its territory and has no ships or craft flying its flag that fall within the scope of this Directive. Such a Member State may not allow ships or craft that fall within the scope of this Directive to fly its flag until it has transposed and implemented this Directive.

Any Member State that intends to avail itself of that derogation shall notify the Commission at the latest on [OJ: please insert date of transposition of this Directive]. Any subsequent change shall also be communicated to the Commission.

Article 3
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 4
Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
